



JPW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

TANAKA, S. et al.

Atty. Ref.: 723-1441; Confirmation No. 6120

Appl. No. 10/689,073

TC/A.U. 2618

Filed: October 21, 2003

Examiner: Alam, Fayyaz

For: WIRELESS COMMUNICATION GAME SYSTEM

* * * * *

October 16, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

X

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Office Action dated September 16, 2008, holding the subject matter of Species I (Figure 2, pertaining to claims 1-6, 10-18, 22-29, 31, 38 and 42) to be patentably distinct from that of Species II (Figures 16, 19, and 26, pertaining to claims 7, 9, 19, 21, 32-35, 39, 41, 43, and 45); or Species III (Figures 6 and 7, pertaining to claims 8, 20, 36-37, 40, and 44); Applicant hereby elects the invention of Species I (Figure 2, pertaining to claims 1-6, 10-18, 22-29, 31, 38 and 42) for further substantive examination.

This election is made without traverse. However, because a restriction requirement is never proper unless the restricted group of claims is patentably distinct

TANAKA, S. et al.
Appl. No. 10/689,073
October 16, 2008

(i.e., *inter alia*, non-obvious under 35 U.S.C. § 103) from the elected group of claims, the Examiner is requested to ensure that such patentable distinctness is present before proceeding to make the requirement final.

It is respectfully requested that the non-elected claims be retained for use with a possible divisional application.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



Raymond Y. Mah
Reg. No. 41,426

RYM/JR:lmj
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100